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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:
John C. Myers

Serial No. 09/707,987

Filed: November 8, 2000

For: TELEPHONE BASED ACCESS TO
INSTANT MESSAGING

§ Attorney Docket No. 22171.309
§
§ Customer No. 27683
§
§ Group Art Unit: 2645
§
§ Examiner: Gauthier, Gerald
§

TRANSMITTAL

RECEIVED

Box Non-Fee Amendment
Commissioner for Patents
Washington, D.C. 20231

MAR 12 2003
Technology Center 2600

Dear Sir:

Enclosed are the following regarding the above-identified patent application:

1. Amendment in response to December 4, 2002 Office Action;
2. Transmittal sheet in duplicate; and
3. Return postcard.

The Commissioner is hereby authorized to charge payment of any further fees associated with any of the papers submitted herewith or to credit any overpayment to Deposit Account No. 08-1394.

Respectfully submitted,
Timothy F. Bliss
Timothy F. Bliss
Registration No. 50,925

Dated: March 4, 2003
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27683

PATENT TRADEMARK OFFICE

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to:
Commissioner for Patents, Washington, D.C.
20231 on March 4, 2003

Gayle Conner
Gayle Conner



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§ Attorney Docket No.:
§ 22171.309 (11559STUS02U)
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RESPONSE

Box Non Fee Amendment
Commissioner For Patents
Washington, DC 20231

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Dear Sir:

In response to the Office Action mailed December 4, 2002, please consider the following remarks:

REMARKS

Claims 1-54 are presently pending.

Rejections under 35 U.S.C. § 103

Claims 1-54 stand rejected under §103(a) as being unpatentable over U.S. Patent No. 5,848,134 to Sekiguchi et al. ("Sekiguchi") in view of U.S. Patent No. 6,212,548 to DeSimone ("DeSimone"). Applicant respectfully traverses these rejections, and reconsideration of Applicant's pending claims is respectfully requested.

1. Hypothetical Combination does not Achieve Claimed Subject Matter.

As the PTO provides in MPEP §2143, "[t]o establish a prima facie case of obviousness, . . . the prior art reference (or references when combined) must teach or suggest all the claim limitations." Furthermore, under MPEP §2142, "[i]f the examiner does not produce a prima facie case, the applicant is under no obligation to submit evidence of nonobviousness." It is submitted that the Office action does not factually